

Advisory Committee Meeting

May 19, 2006

MEETING MINUTES

The meeting of the Advisory Committee to the Bureau for Private Postsecondary and Vocational Education (BPPVE) was held in the First Floor Hearing Room of the Department of Consumer Affairs, 1625 North Market Boulevard, Sacramento, CA, on May 19, 2006.

Members Present

Dr. Lolly Horn, Institution Representative
Mitchell Fuerst, Institution Representative
Elena Ackel, Student Advocate, by teleconference
Pastor Herrera, Jr., Student Advocate, by teleconference
Tom Gilmore, Institution Representative
Dr. Betty Sundberg, Other – Educational Consultant
Salvador Velasquez, Employer Representative

Members Not Present

Jay Achenbach, Institution Representative
Norma Ford, Institution Representative

BPPVE Staff Present

Barbara Ward, BPPVE Bureau Chief
Patrick Dorais, BPPVE Deputy Chief
Laura Freedman, DCA Legal Counsel
Jeanne Ireland, BPPVE Regulations Coordinator
Jesus Jaime, Education Administrator, Enforcement Program
Jane Canty, Education Administrator, Title 38 Program

BPPVE Staff Not Present

Call to Order

The meeting was called to order by Ms. Ward at 10:05 a.m. Roll was called and a quorum was established.

Approval of Minutes for the Meetings of October 28, 2005 and February 3, 2006

Minutes from the meeting of October 28, 2005 had not been formally approved due to the lack of a quorum of members in attendance at the February 3, 2006 meeting. Ms. Ward asked if the members had revisions or comments on the minutes of either meeting. There were no comments. Dr. Horn moved and Dr. Sundberg seconded a motion to approve the minutes of both meetings. A voice roll call was taken, and the members voted unanimously in favor of approving the minutes of the Advisory Committee meetings of October 28, 2005 and February 3, 2006.

Confirmation of, and Agenda Items for, Future Meetings

Ms. Ward asked for agenda items for future meetings, in addition to the Bureau Chief and Enforcement updates, which are both standing items. Suggestions for future agenda items included: the Bureau's Complaint Mediation Pilot; Memoranda Of Understanding (MOU) with other agencies; the Bureau's Strategic Plan, the Bureau's grievance procedure, including a summary of complaints against schools; an update on staffing levels and the budget; and the results of a civil suit involving ITT Technical Institute. A discussion of the Monitor's Report was requested; however, Ms. Ward indicated that the report was fully addressed at the prior meeting and that she did not feel that the report should be on the agenda again.

Ms. Ackel asked why an item she requested regarding the lack of STRF funds available to pay claims against the non-degree account, was not on the current agenda. Ms. Ward explained that her request was received too late to include on this agenda, and reminded members that the committee is subject to the public notice requirements included in the Bagley-Keene Open Meeting Act.

Ms. Ward indicated that the Bureau would work with the committee Chair to develop agenda items for future meetings. She stressed that it is not always easy to accommodate all suggested items in a meeting agenda. She also encouraged members to provide quick responses to the Bureau's request for agenda items in order to meet the time constraints imposed by the public notice requirement.

Election of Chair and Vice-Chair

Mr. Fuerst requested, and members unanimously agreed, that the election of Chair and Vice-Chair for the Advisory Committee be held during the morning session rather than in the afternoon as originally scheduled.

Ms. Ward requested nominations for the Chair position. Dr. Sundberg nominated Dr. Lolly Horn. Mr. Velasquez nominated Mr. Mitchell Fuerst. Mr. Herrera moved to close the nominations, and Mr. Velasquez seconded the motion. Ms. Ireland took the members' votes by voice roll call. Mr. Fuerst was elected Chair on a 5 to 4 vote.

Nominations were requested for Vice-Chair. Dr. Sundberg nominated Dr. Lolly Horn. There were no other nominations. Ms. Ireland again took the members' votes by voice roll, and Dr. Horn was unanimously elected Vice-Chair on a 9 to 0 vote.

Ms. Ackel renewed an objection she had previously made to the committee electing officers before a full complement of members was established. She stated that elections should not be held because student advocate members were not equally represented. Ms. Laura Freedman, Department of Consumer Affairs (DCA) legal counsel, acknowledged Ms. Ackel's objection, but stated that there was no legal impediment to the election of officers based on this issue.

Bureau Chief's Update

1. Application Backlog Reduction

Ms. Ward indicated that backlogs still exist, such as with site visits for degree schools where there are 68 site visits pending. She explained that one Senior Education Specialist was redirected from the Degree Program to the Title 38 Veterans Program, and that other staff have been redirected as needed, which has affected the Degree Program's capability to address the backlog.

Committee members asked the status of the 68 institutions that had not received site visits and how long the site visits have been backlogged. Members indicated that the number of backlogged site visits alone does not provide enough detail to fully comprehend the backlog's effect. Ms. Ward explained that the 68 institutions currently have temporary approvals to operate, but agreed that detail regarding the status of backlogs and backlogged institutions should be included in future updates.

2. Staffing and Budget

Ms. Ward stated that the Bureau currently has 14 vacancies, which remain on hold due to a lack of funds available to fill them. She indicated that Senate Bill 1473 (Figueroa), which subsequently died in Committee after the meeting, proposed developing new fees to support the staff required by the Bureau to perform its mission.

3. Regulatory Packages

Ms. Ward stated that the regulatory packages for Registered Educational Services and Complaint Handling Procedures are being held pending the outcome of Senate Bill 1473 (Figueroa). She explained that the regulations as currently written might be in conflict with potential legislation.

Legislative Update

Laura Zuniga, from DCA's Legislative and Regulatory Division, provided an update on bills in the Legislature that could potentially affect the Bureau.

1. AB 827 (Goldberg)

This bill would prohibit any private postsecondary institution regulated by the Bureau from enforcing student loans that are not in compliance with the Federal Trade Commission (FTC) Holder Rule.

2. AB 523 (Negrete McLeod)

This bill would amend current placement rates and would repeal the three-year experience requirement to become a Director of an institution for a sole proprietor.

3. AB 2810 (Liu)

This bill would add prohibitions to institutions granting sub-standard degrees or fraudulent degrees.

Mr. Herrera asked if the proposed legislation would apply to registered institutions. Ms. Zuniga referred the question to Mr. Bruce Hamlett, who responded that he believed that it did apply to registered institutions as well as approved. It was later clarified with Mr. Hamlett that the proposal would only extend to approved degree schools. Mr. Herrera asked for DCA's position in regard to AB 2810, and Ms. Zuniga indicated that DCA had not stated an opinion at this time. Dr. Horn asked how compliance with the provisions of AB 2810 would be monitored. Ms. Zuniga responded that she presumed that the Bureau would monitor compliance through complaints it received, although she indicated that the bill might not address that issue specifically.

4. SB 924 (Speier)

This bill would add requirements and consumer protections to education provided by truck driving schools.

5. SB 1473 (Figueroa)

This bill would repeal and replace the existing Private Postsecondary and Vocational Education Reform Act and is a joint effort of Senator Figueroa and DCA. It would establish a new fee structure for the Bureau, allow accreditation to replace Bureau approval in some instances, and eliminate the caps on Student Tuition Recovery Fund (STRF) sub-accounts. The bill is scheduled for hearing on May 25, 2006.

Mr. Fuerst asked who was included in the workgroup that wrote the bill. Ms. Zuniga indicated that the Bureau provided input to the workgroup, and that the committee's input, through the Bureau, would be welcome. Ms. Zuniga said that SB 1473 had the support of the California Association of Private Postsecondary Schools (CAPPS) and DCA, and was opposed by Legal Aid of Los Angeles and the Office of the Attorney General. [It is noted that the bill later died in the Senate Appropriations Committee.]

Ms. Zuniga was again asked if DCA has positions on these bills and responded that DCA is analyzing the bills at this time.

Lunch

The committee decided to replace the scheduled lunch with a short break due to early flights of some of the members. The meeting reconvened at 11:15 a.m.

Enforcement Update

Jesus Jaime, Education Administrator of the Bureau's Enforcement Program, updated the committee members on the Bureau's enforcement activities.

The Bureau's pilot with DCA's Complaint Mediation Program has been extended. Of 503 student complaints received, 190 were referred to the Bureau's Enforcement Program and 313 sent through the Complaint Mediation Program. Of the complaints sent for mediation, 204 were

closed resulting in \$42,420 in student refunds. Complaints referred to the Complaint Mediation Program were closed in an average of 35 days.

Mr. Jaime reported that Enforcement Program staff have attended training provided by Margaret Reiter, Supervising Lead Deputy Attorney General, Office of the Attorney General, in September 2005; John Pieratt, Supervising Investigator, and Jody Guro, Analyst, DCA Division of Investigation, in December 2005; Dale Fagan, Special Agent, Certified Fraud Examiners, in January 2006; and Robert Vallas, Institutional Review Specialist, U.S. Department of Education, Region 9 Office, in February 2006. Training in financial review and analysis, to be provided by Carroll Dillard, Education Specialist, Enforcement Program, is scheduled for May 31, 2006.

The Enforcement Program, in cooperation with DCA's Complaint Mediation Program, has provided outreach to 10 high schools in 2006. The Complaint Mediation Program has branch offices in Hayward and southern California, which allows outreach to be provided statewide. Outreach includes an assembly meeting with the students, or, alternatively, a meeting with a school administrator, and providing handouts that include the Bureau's brochure.

Mr. Jaime indicated that the Enforcement Program takes a proactive approach to administrative actions. Ten actions took place during 2003; 21 in 2004, and 13 in 2005, which resulted in 7 closures with 5 actions still in the hearing process. To date, in 2006, the Enforcement Program has initiated 16 administrative actions.

Committee members had several questions about the Complaint Mediation Pilot and the Bureau's administrative actions taken against schools. Ms. Ackel asked if complaints were closed without resolution, how many were resolved in the student's favor, and whether a detailed analysis of closed complaints was available. Mr. Herrera asked if a breakdown of complaints by category, or nature of the complaint, could be provided. Dr. Horn stressed the importance of the reasons behind the Bureau's administrative actions, and asked for a summary. Mr. Fuerst asked about enforcement actions resulting in closures and whether the students were provided teach-out options. Ms. Ackel asked why the status of the Bureau's action against Brooks Institute of Photography was not included in the Enforcement Update and if it could be included in the next agenda.

It was agreed that the statistics in the enforcement update do not provide enough information to be useful in establishing patterns and recognizing trends. Detailed summaries of the nature and outcome of the complaints referred to the Complaint Mediation Program and of the Bureau's administrative actions will be provided to members at the next meeting.

Mr. Dorais indicated that student complaints generally are in regard to quality of education, allegations of misrepresentation, and financial issues. In regard to administrative actions taken or citations issued by the Bureau, that information is public record.

Mr. Dorais stressed the Bureau's strong focus on enforcement, pointing out that three more actions had been taken in the first months of 2006 than in all of 2005. He explained that annual report submittals are carefully reviewed and provide a direct link to the appropriate payment of annual fees. The Bureau is focused on identifying schools out of compliance with required submittals of annual reports, annual fees and STRF fees. The Bureau is also working to develop audit procedures for fee payments. He indicated that the Bureau had recently completed a complex investigation of four trucking schools, which the committee may want to discuss at the next meeting.

Overview of Veteran's Education

Jane Canty, Education Administrator, provided an overview of the Bureau's Title 38 Program, which participates with U.S. Department of Veteran's Affairs (VA) staff to approve and regulate schools that provide educational services to veterans.

The Bureau's Title 38 Unit has 13 staff, including 10 Education Specialists. The program is 100% federally funded through a contract with the VA. The staff is divided into two units, located in the north and south, which serve 976 approved schools, 45,000 enrolled veterans and an economic development program. In FY 2003/2004, \$254 million was spent on veterans' education.

Ms. Canty explained that the Montgomery GI Bill was authorized by Title 38 of the Federal Code to provide benefits for veterans seeking education and training. A GI must sign up for the program prior to discharge, and receives a monthly allotment from the VA to be used solely for education and training.

The program includes many licensed and certified educational programs. Most of the funds go to programs offered by private postsecondary schools. Schools apply at no cost to participate in the Title 38 program through the Bureau, which is the California approval agency for the VA. Upon approval to participate in the program, a school's officials must be certified to offer Title 38 programs.

Veterans' benefits for certain programs that lead to certification or licensure, such as Microsoft's Certified Professionals (MCP) courses, have been increased to cover the cost of exam fees. A school that offers one of these programs and is qualified as a testing facility is eligible to receive reimbursement for veterans' exam fees directly from the VA, in much the same way that federal financial aid funds are received by schools.

Dr. Horn indicated that it was difficult for schools to get information regarding GI programs. The Bureau agreed to provide periodic updates on the Title 38 program to the committee and to develop a proactive outreach to schools about the program.

Public Comment for Items Not on the Agenda

Mr. James Patterson of Lincoln University in Oakland, California, indicated that members of the public in attendance at Advisory Committee meetings would benefit if the names and titles of key Bureau staff were included on meeting agendas. He feels that it would help to identify the speakers during presentations and discussions of agenda items. Mr. Patterson also indicated that persons in the audience cannot read the nameplates of Bureau staff and committee members.

There were no other public comments.

Adjournment

The meeting was adjourned at 1:08 p.m.